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Governor
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Lieutenant Governor

State of Utah

DEPARTMENT OF NATURAL RESOURCES

Division of Water Rights

MICHAEL R. STYLER
Executive Director

JERRY D. OLDS
State Engineer/Division Director

November 15, 2005

Jim Farnsworth
2150 South Shumway Lane
Moab, Utah 84532

Dear Mr. Farnsworth:

I am writing in response to your letter of April 18, 2005. I apologize that this response is so late; it is the unfortunate result of a busy schedule and a misplaced letter.

Although we are concerned about the damage caused by the rockslide into your ditch and the subsequent flooding, I am afraid there is very little this office can do to help alleviate your problems regarding this situation.

Locks are used by commissioners only in situations where the headgates are tampered with and the settings changed after being regulated by the water commissioner. When water users abide by the commissioners regulation, there is no need for head gates to be locked.

It is unfortunate that early snows prevented the commissioner from changing the settings on the headgate and that the rock slide and other side flows into the ditch combined to wash out your ditch. However, we are not convinced that lowering the headgate would have of itself prevented the washout. We understand other flows entering the ditch from the side hill contributed substantially to the flows in the ditch and the subsequent flooding. We are concerned that the commissioner did not communicate to you the fact that the headgate had not been lowered. We will discuss this situation with him to guard against a reoccurrence of this problem.

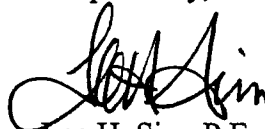
In regards to your concerns about the competency of the current water commissioner, with the exception of this situation, our experience is that the commissioner has done a reasonable job in discharging his duties. The water commissioner receives general direction and guidance from the State Engineer to regulate the distribution of water according to the water rights of record.

The commissioner on Mill Creek has always been appointed by the State Engineer on the basis of the recommendation from the majority of the water users present at the annual meeting. If you feel there should be a change of commissioner, you must show cause why the commissioner should be removed and be prepared to present another candidate for the position who would be acceptable to the majority of the water users and to the State Engineer.

The proper distribution of water on a distribution system is always a cooperative effort between the commissioner and the water users. Problems usually arise when there is poor communication and when water users will not abide by the commissioner's regulation. We would encourage improved communication and improved cooperation on the part of both the water users and the water commissioner

If you have any questions regarding this letter, please contact me by telephone at (801)538-7380 or by e-mail at LeeSim@utah.gov.

Respectfully,

A handwritten signature in black ink, appearing to read "Lee H. Sim". The signature is fluid and cursive, with the last name "Sim" being more prominent.

Lee H. Sim, P.E.

Assistant State Engineer for Distribution

cc: Mark Page, Regional Engineer
Heather Shilton, Assistant Attorney General
Bob Byrnes, Water Commissioner